



119 Washington Avenue, Suite 103
Albany, NY 12210
518.432.1405
info@aceny.org | www.aceny.org

Date: October 4, 2023

To: Mr. Blake Washington, Director of the Division of the Budget
Mr. John O’Leary, Deputy Secretary for Energy and Environment
Ms. Jeshica Patel, Assistant Counsel to the Governor

From: Anne Reynolds, Alliance for Clean Energy New York

Re: **Supporting Clean Energy Goals in the 2024-2025 Executive Budget**

The Alliance for Clean Energy New York (ACE NY) truly appreciates New York’s leadership on clean energy and climate action, as well as its support for the growth of the clean energy industry and the jobs that it provides. With the adoption of the Climate Scoping Plan, there are numerous actions that Governor Hochul could take in her 2024-25 Executive Budget to implement the Plan and that will support New York’s clean energy goals. Therefore, we respectfully make the following requests for the 2024-2025 Executive Budget:

- **Promote Electric Vehicles, Energy Storage Infrastructure, and Heat Pump Installations via a Sales Tax Exemption**
- **Facilitate Renewable Projects Reaching Construction**
- **Facilitate Solar Panel Recycling Without Slowing Solar Project Development**
- **Use Budget Actions to Promote Electric Vehicles**

1. Promote Electric Vehicles, Energy Storage Infrastructure, and Heat Pump Installations via a Sales Tax Exemption.

- I. **Exempt Electric Vehicles from Sales Tax.** S.5455 (Jackson) / A.3159 (Fahy) provides a State sales and compensating use taxes exemption on the first \$35,000 of battery, electric, or plugin hybrid EVs purchase, and authorizes local governments to elect to do the same. The inclusion of this exemption in the Executive Budget will help to reduce the upfront cost of purchasing or leasing an EV, a critical barrier to EV adoption. This will support EV deployment and market development in New York. We would also support a phase-out plan for this exemption. For example, the sales tax exemption could be valid between now and 2035 for light duty vehicles.

- II. **Sales Tax Exemption for Energy Storage.** ACE NY is excited to see a new battery manufacturing Gigafactory coming to New York – this displays that companies want to locate themselves in NY. The state should continue to incentivize this investment. Last year, Governor Hochul announced a 6-gigawatt by 2030 goal for energy storage in New York. Currently, energy storage technologies are not eligible for exemption from state sales tax for residential and commercial installation. However, other similar clean energy technologies, such as residential and commercial solar energy equipment and commercial fuel cells, are eligible. The State Department of Taxation and Finance issued an advisory opinion¹ stating that to be eligible for state sales and use tax exemptions like solar and fuel cell equipment and installation, energy storage must meet specific, narrowly defined technical requirements that effectively make it impossible to qualify for the exemption. We support S.4547 (Parker) / A.4954 (Paulin) which would ensure that clean energy technologies are treated similarly under State tax law, thus creating a level playing field for these technologies. Importantly, this bill ensures that “stand-alone” energy storage projects would be eligible for a state sales tax exemption and thereby help to spur deployment of energy storage projects and enable the state’s electric grid to reap the abundant benefits of this critical technology.
- III. **Sales Tax Exemption for Heat Pumps.** Heat pumps are the key to our transition to efficient electric heating for our buildings. They offer homeowners and landlords an efficient all-in-one heating and cooling system. Air source heat pumps are two to three times more efficient than fossil fuel or electric resistance heating systems.² The Climate Action Scoping Plan³ calls for the scaled-up installation of heat pumps and also a scale-up of financial incentives for heat pumps. To reach the Governor’s goal of two million climate friendly homes by 2030 and the emission reductions required by the Climate Law, the state should eliminate the sales tax for the purchase and installation of residential and commercial heat pumps, and allow for local municipalities to suspend their share of the sales tax. The state currently provides a sales tax exemption on the installation of residential and commercial solar energy systems and fuel cells.

2. Facilitate Renewable Projects Reaching Construction.

New York has set ambitious goals and fast-approaching timelines for the development of renewable energy in the state. Of course, there are barriers that need to be addressed to make sure that New York reaches those goals. Out of 123 renewable energy projects awarded contracts by NYSERDA, only 25 are operational and 5 are under construction. Permitting and siting roadblocks, ineffective tax language, and lack of transmission infrastructure are just a few of the barriers faced by wind and solar developers. New York must work to remove these obstacles to ensure the timely development of clean energy projects. The suggestions outlined below, and additional provisions to reduce renewable development hurdles are outlined in S.7442 (Parker), the Omnibus Renewable Energy Progress Act (REPA).

¹ https://www.tax.ny.gov/pdf/advisory_opinions/sales/a09_36s.pdf

² Air Source Heat Pumps, DOE <https://climate.ny.gov/resources/scoping-plan/>

³ Page 120, Draft Scoping Plan <https://climate.ny.gov/-/media/Project/Climate/Files/Draft-Scoping-Plan.pdf>

- I. **Exempt Renewable Energy PILOT Revenue from Tax Cap Calculations.** Currently, revenue from Payments In Lieu of Taxes (PILOT) agreements are included in the annual calculations for Tax Cap, but the real property improvements made under a PILOT are not counted under the Tax Base Growth Factor. By exempting PILOT property assessment increases, and not exempting PILOT revenue from Tax Cap calculations, the current law limits revenues that a municipality can raise to meet the increase in demand for services as their community grows. In other words, even though a wind and solar project will pay significant property taxes via a PILOT payment in a town, the tax cap will often require a town to reduce residential and commercial property taxes rather than realize additional revenue. We recommend an amendment to the Tax Cap that includes the change in assessed value for each property under a renewable energy or energy storage PILOT agreement. This will ensure that municipalities are rewarded for hosting renewable energy projects. For historical context, legislation – previously passed by both Houses and ultimately vetoed by then Governor Cuomo – would have made a technical adjustment to the property tax cap by clarifying that properties under PILOT agreements are to be included in a school district's tax base growth factor, as part of the tax cap calculation. This bill was similar to language first enacted in 2015, which permitted the State Department of Taxation and Finance to make this adjustment administratively. This bill would have removed the permissive nature of the 2015 version and required the adjustment to be made. Because the tax base growth factor can never be below 1.0, this bill would have only served to help districts in such scenarios.

- II. **Direct NYPA to Assist in Solving Transmission Constraints.** Currently, one of the largest barriers to the decarbonization of the New York grid is insufficient transmission capacity in certain locations. This restricts the interconnection of renewable energy projects and results in the congestion or curtailment of renewable power. The New York Power Authority (NYPA) should continue to contribute to solving this problem with a renewed focus. The Executive Budget could direct the PSC, in consultation with NYPA, NYISO, and NYSERDA to identify three or more areas on the grid where there is renewables development potential in terms of resource or land availability, but where this development is limited by a lack of transmission. An alternative approach would identify Areas Z1, Z2, and X3 as identified in the [2021-2040 System and Resource Outlook](#)⁴, published by the NYISO. NYPA should subsequently be directed to study and propose bulk transmission solutions for these “Constrained Grid Zones” by December 31, 2024. This effort would complement and contribute to the Comprehensive Grid Planning Process that the PSC is currently pursuing, but with a focus on local transmission solutions (as opposed to bulk). These proposed solutions could then be “priority projects” as defined by the Accelerated Renewable Energy Growth and Community Benefit Act of 2020 that NYPA would submit to the PSC.

⁴ New York Independent System Operator. 2021-2040 System & Resource Outlook (The Outlook). September 22, 2022. <https://www.nyiso.com/documents/20142/33384099/2021-2040-Outlook-Report.pdf/a6ed272a-bc16-110b-c3f8-0e0910129ade?t=1663848567361>

- III. **Ensure Safe and Efficient Delivery of Wind Turbine Superloads.** At present, state troopers are the only entities allowed to escort large wind turbine parts, called “superloads”. There is concern that there are not enough state troopers to escort materials at the scale predicted for the coming years. This issue is addressed in a bill, [S.373 \(Parker\)](#) / [A.751 \(Hunter\)](#), which would permit Environmental Conservation officers, Parks Police, County Sheriff, the National Guard, and private security escorts to act as escort vehicles for superloads. The bill would also expand the permissible hauling days for these materials to include Saturday and Sunday, which will provide more flexibility in construction processes for developers. In addition, it will further streamline processes by requiring state agencies and public authorities to prioritize permitting and requests for approval for such travel.

- IV. **Include Agrivoltaic Projects in the Agricultural Property Tax Exemption.** Currently, farmers receive a property tax exemption on land used in agricultural if they have 7 or more acres of land, and gross sales of agricultural products to average over \$10,000 for the preceding two years. However, local assessors assess agrivoltaic projects at the full value, even if the land and the farm is eligible for the agricultural property tax exemption. This adds to the cost burden of implementing an agrivoltaics project and deters farmers and developers from taking on these joint projects. The Agriculture and Markets law should be amended to clarify that if land hosting a solar project otherwise meets the eligibility requirements for an agricultural property tax exemption, then it still should be able to receive that exemption. This will encourage farmers to maintain farm operations even after deciding to host solar energy and will encourage them to co-locate agricultural activities and solar.

3. Facilitate Solar Panel Recycling Without Slowing Solar Project Development.

Solar panels are designed to provide safe, reliable, and affordable energy for 35 years. After a panel’s useful life, it may continue to operate, albeit at reduced efficiency. Should the owner of a solar facility decide to restore the site to another land use – known as decommissioning – there are many options for the used panels. While the solar panel recycling industry is relatively small at present, it is likely to grow as more solar facilities reach the end of their operational life in the next decade and beyond.

It is estimated that by 2030, the cumulative value of recoverable materials from decommissioned solar panels will be approximately \$450 million. It is anticipated that as more panels reach the end of their useful life, the price of recycling will fall, and the rate of recovery will increase.

In June 2021, Niagara County passed a law that makes manufacturers of solar panels responsible for financing and planning for recycling of solar panels after their use. The controversial county law is the first of its kind to be adopted at the sub-state level and is modeled after other extended producer responsibility (EPR) laws. The law requires solar manufacturers to present a stewardship plan beginning August 1, 2022, or within 30 days of its first sale of solar panels into the county.

While EPR advocates no doubt have a sincere desire to find sustainable solutions to the emerging challenge of various waste streams, the authors and proponents of the Niagara County law do not hide their hopes that such a law will prevent solar development in the county. Indeed, multiple Niagara County legislators publicly acknowledge that dooming solar projects in the county is an acceptable consequence of passing this bill and anti-solar advocates “hope” that this law prevents the development of utility-scale solar projects⁵.

With all this in mind, ACE NY is respectfully requesting that this issue be addressed in the Executive Budget. We suggest first that a state provide an income tax credit to incentivize solar panel recyclers to locate in the State. Second, we suggest that a research study be conducted by NYSERDA and NYSDEC of the end-of-life solar panel waste treatment and recycling needs, and NYSDEC regulations on the proper disposition of solar panel waste be promulgated. Third, we request that provisions preempting local panel recycling laws be included in the Executive Budget, or, at a minimum, statutory language that prohibits local waste treatment requirements from blocking solar development in the municipality.

4. Use Budget Actions to Promote Electric Vehicles.

- I. **Allow the Direct Sale of Electric Vehicles.** The Executive Budget should allow manufacturers of only electric vehicles to sell their electric vehicles (EVs) at retail locations across the state. Presently, there are only five retailer locations that hold certificates of registration to sell EVs in New York, all of which are located downstate. We support S.4977 (Harckham) /A.3779 (Fahy), which would eliminate the cap on the number of retail locations that manufacturers that do not have franchised dealerships can open. This change would have no cost to the General Fund and would scale up the number of EV retailers in the state. Moreover, it would make it more convenient for all New Yorkers to buy EVs, promoting consumer choice and giving fairer access.
- II. **Adopt the Clean Fuels Standard (CFS).** S.1292 (Parker)/A.964 (Woerner) establishes a carbon intensity standard for all transportation fuels. Entities must meet the standard by producing or purchasing low carbon fuels or credits, encouraging the gradual transition away from gasoline to electric vehicles (EVs). A similar policy has been used successfully in California⁶ and Oregon⁷ for years. Private revenue from the CFS could secure sustainable funding for EVs and charging infrastructure, mass transit and biking and pedestrian infrastructure at no

⁵ https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article_0f6fd0a6-d047-11eb-818d-5f01f54bc7c3.html#

⁶ “Since its start in 2011 the program has generated credits representing a total reduction of 47.1 million metric tons of climate changing gases.” <https://ww2.arb.ca.gov/news/cleaner-fuels-have-now-replaced-more-3-billion-gallons-diesel-fuel-under-lowcarbon-fuel>.

⁷ “The Oregon Clean Fuels program prevented 3.6 million tons of climate pollution, the equivalent of 778,000 tailpipe emissions over the near four years the program has been in effect, at a cost of pennies per gallon.” <https://oeonline.org/cfs-march-2020/#:~:text=The%20Oregon%20Clean%20Fuels%20program%20has%20prevented%203.6,at%20how%20much%20climate%20pollution%20transportation%20fuels%20emit.>

cost to the State's General Fund. The inclusion of this policy in the Executive Budget will foster emissions reductions in the short-term and is therefore a great complement to the legislation signed by the Governor, Chapter 423 of 2021, and her announcement⁸ to adopt California's zero-emission vehicle sales requirements, thereby driving reductions in the long-term. The bill passed the Senate this year with an overwhelming vote of 51 to 11.

- III. **Classify EV Charging Stations as an Accessory Use of a Site.** EV charging stations are typically constructed near existing infrastructure as part of an existing or new site. They are an adjunct to the project, *i.e.*, they are not the main purpose of the property, and should be considered an accessory to the existing site use. This separation of the charging station permit review from the larger project will reduce the complexity and permitting timeframe, since it removes the need for separate zoning approval, which can add considerable costs and months to the permitting timeline. This action is recommended in NYSERDA's *DC Fast Charger Streamlined Permitting Guidebook for Local Governments*⁹ and enacted in law by California in 2016¹⁰. The Department of State should be directed to revise the state building code and to assist local governments in revising their local permitting and review structure to classify charging stations as an accessory use.
- IV. **Grid Upgrade Needed for Charging Build Out.** The construction of EV fast charging stations will also require major grid upgrades to support their electricity needs. It will be inefficient to do grid upgrades for one fast charger when that location is expected to need ten more chargers in five years. We support the original language of S.4830 (Kennedy) / A.5052 (Woerner) that, in addition to the development of a highway and depot charging action plan, would allow the utilities to both include this sub-plan in its capital plan and implement the grid investments identified in the plan. As we begin the EV transition, these identified no regret investments in the grid will result in reduced future grid upgrade costs. The current upgrade process requires a customer to request additional electricity delivery. By preplanning these investments, we can reduce the cost and time needed to permit, engineer and construction grid upgrades. We need to begin the process now to ensure the electricity will be able to be delivered to where we know we are going to need it. Delays in grid upgrades will result in delays in fleet and the EV transition.

We appreciate your consideration of these recommendations, and we welcome the opportunity to discuss these proposals with you or your staff at any time. I can be reached at areynolds@aceny.org or at 518-248-4556.

⁸ Governor Hochul Drives Forward New York's Transition to Clean Transportation.

<https://www.governor.ny.gov/news/governor-hochul-drives-forward-new-yorks-transition-clean-transportation>

⁹ DC Fast Charger Streamlined Permitting Guidebook for Local Governments. February 2020. NYSERDA.

<https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Clean-Energy-Siting/DC-Fast-Charger-Guidebook.pdf>

¹⁰ California Assembly Bill 1236 (AB 1236). [Bill Text - AB-1236 Local ordinances: electric vehicle charging stations.](#)

cc: Sean Ewart, Assistant Secretary for Energy
Nivardo Lopez, Deputy Secretary for Transportation
Doreen Harris, President & CEO, NYSERDA
Basil Seggos, Commissioner of the NYS Department of Environmental Conservation
Caroline Wolfe, Senior Policy Advisor for Energy
Albert Pulido, Deputy Secretary for Finance and Technology